IN THE

# Supreme Court of the United States

OCTOBER TERM, 1975

**No. 74-520**

ERNEST L. MONTANYE, former Superintendent of Attica Correctional Facility, and HAROLD SMITH, former Deputy Superintendent of Attica Correctional Facility,
*Petitioners,*

vs.

RODNEY R. HAYMES,
*Respondent.*

## BRIEF OF THE STATE OF CALIFORNIA AMICUS CURIAE IN SUPPORT OF PETITIONERS


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### INTEREST OF AMICUS CURIAE

The interest of the State of California in the issue raised by the Petition for a Writ of Certiorari is generated by several interrelated concerns.

First, in the fiscal year 1974-1975 the number of transfers of males from Reception Centers and between institutions of the California Department of Corrections exceeded 30,000. (Appendix C, pp. 59a-60a). Accordingly, any decision reached by this Court

with respect to transfers will have a significant impact upon the management of the California prison system.

Second, inmate transfers are not readily susceptible of being cast in a single mold. Objective and subjective variables, generated by predictable and unpredictable occurrences, preclude formulation of a universal model. The regulations of the California Department of Corrections reflect such potentialities (i.e. Appendix B, pp. 7a-58a). Accordingly, any determination by this Court which casts doubt upon the propriety of acknowledging the reality of such variables would have a significant impact upon the formulation by the California Department of Corrections of transfer procedures.

Third, inmate transfers are a critical component in the achievement of the objectives of the correctional system. The movement of inmates is not solely a means for achieving the most economic utilization of available facilities and staff. Rather, it is a process whereby the dual objectives of security and rehabilitation may be served. Moreover, it is a process wherein conflicts between the needs and desires of a particular inmate and the welfare and security of the correctional system as a whole may be brought into sharp focus. It is thus a process wherein correctional officials may be faced with the difficult task of arriving at a proper accommodation between the dual objectives of security and rehabilitation. In short, it is an area of ultimate significance and difficult choices. The procedures of the California Department of Corrections for the transfer



of inmates have not remained static. Significant procedural changes have recently been implemented (*see* Appendix A, pp. 1a-6a). However, the implementation and operation of these procedures is the subject of an ongoing study. As this is thus an area wherein policy determinations must and are being made, and wherein new procedures should and are being considered, any determination by this Court which limits the discretion of correctional officials would have a significant effect upon the development of transfer procedures.

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## SUMMARY OF ARGUMENT

A person committed to state prison following his conviction of a crime has no property or liberty interests in remaining in a particular institution within the state's prison system. An inmate has no claim of entitlement to placement in any one particular institution. Accordingly, procedural due process is not mandated by the Fourteenth Amendment.

The decision by correctional officials as to which institution each inmate committed to their custody should be located in is a question of policy and judgment. The establishment of any mandatory guidelines is a legislative, not a judicial, matter.

The continuing development of procedures for transferring inmates between institutions should remain within the sound discretion of correctional officials. At a time when practices are diverse, and when new procedures are being explored, curtailment of development should not be imposed.

## ARGUMENT

### I

### A PERSON COMMITTED TO STATE PRISON UPON HIS CONVICTION OF A CRIME HAS NO PROPERTY OR LIBERTY INTERESTS IN CONFINEMENT IN A PARTICULAR INSTITUTION.

The Constitution does not require that every government impairment of some interest be conditioned on notice and an opportunity to be heard. *See Cafeteria Workers v. McElroy,* 367 U.S. 886, 894 (1961). "The requirements of procedural due process apply only to the deprivation of interests encompassed by the Fourteenth Amendment's protection of liberty and property. When protected interests are implicated, the right to some kind of prior hearing is paramount. (Footnote omitted). But the range of interests protected by procedural due process is not infinite." *Board of Regents v. Roth,* 408 U.S. 564, 569-570 (1972).

As further observed by this Court in *Roth,* "[T]o determine whether due process requirements apply in the first place, we must look not to the 'weight' but to the *nature* of the interests at stake. *See Morrissey v. Brewer, ante,* at 481. We must look to see if the interest in within the Fourteenth Amendment's protection of liberty and property." *Board of Regents v. Roth, supra,* 408 U.S. 564, 571 (1972).

The concept of liberty has been broadly construed so as to encompass not only freedom from physical restraint, but also the freedom to pursue and enjoy those privileges long accorded to free men. *Board of Regents v. Roth, supra,* 408 U.S. 564, 572 (1972). As a consequence of having been convicted of a crime and



of having been committed to state prison, an inmate is necessarily subject to physical restraint, and his activities are delineated by his custodians. *See Preiser v. Rodriguez,* 411 U.S. 475, 491-492 (1973). In short, by virtue of his conviction, an inmate has forfeited the freedom to be free of restraint and to do as he pleases. It is submitted that by virtue of his status, an inmate does not have a liberty interest in being placed in any particular institution within a state prison system. It is further submitted that confinement in one institution as opposed to another cannot be equated with the conditional grant of "many of the core values of unqualified liberty . . ." *Morrissey v. Brewer,* 408 U.S. 471, 482 (1972).

As further observed by this Court, "To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it. . . . [¶] Property interests, of course, are not created by the Constitution. Rather, they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law—rules or understandings that secure certain benefits and that support claims of entitlement to those benefits." *Board of Regents v. Roth, supra,* 408 U.S. 564, 577 (1972); *see Wolff v. McDonnell,* 418 U.S. 539, 557 (1974).

Accordingly, an inmate can have no property interest in being retained in a particular institution unless state law grants him an entitlement to be placed in that par-

ticular institution. A statutory scheme which is premised upon the maintenance of a variety of institutions (*see* Cal.Pen.Code § 5003), but which grants correctional officials the authority to determine the institution in which the person is to be confined (*see* Cal.Pen. Code § 5068), and the authority to transfer persons from one institution to another (*see* Cal.Pen.Code § 5080), precludes the recognition of a property interest in being placed or retained in one particular institution.

Accordingly, an inmate who is transferred from one state institution to another state institution is not deprived of liberty or property which is protected by the Fourteenth Amendment.

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## II

### THE DETERMINATION OF WHICH INSTITUTION EACH INMATE SHOULD BE PLACED IN IS A MATTER OF POLICY AND INVOLVES AN EXERCISE OF JUDGMENT.

As recognized by this Court, "The operation of a correctional institution is at best an extraordinarily difficult undertaking." *Wolff v. McDonnell,* 418 U.S. 539, 566 (1974). As further recognized by this Court, all persons who have been convicted of crimes cannot be readily grouped into a single category. "Inevitably there is a great range of personality and character among those who have transgressed the criminal law. Some are more amenable to suggestion and persuasion than others. Some may be incorrigible and would merely disrupt and exploit the . . . process for their own end. With some, rehabilitation may be best achieved by simulating procedures of a free society



to the maximum possible extent; but with others, it may be essential that discipline be swift and sure. (Footnote omitted)." *Wolff, supra,* 418 U.S. at 563. Additionally, in evaluating any procedure utilized in the institutional setting, "the necessity to maintain an acceptable level of personal security in the institution, must be taken into account . . ." *Wolff, supra,* 418 U.S. at 563.

In a multi-institution prison system, these concerns are brought into focus by the necessity of reaching a determination as to the most appropriate institution for each inmate. This necessitates a judgment as to the personality and character of the inmate, an assessment of his particular needs, a determination of the institution which can best meet these needs, and an evaluation of the effect of placement in an institution on the level of security.

In a large prison system, the number of such decisions is a factor which cannot be ignored. In fiscal year 1974-1975, there were more than 30,000 transfers of male prisoners from Reception Centers and between institutions of the California prison system. (Appendix C, pp. 59a-60a). All of these transfers cannot be subsumed under a single category (*see* Appendix B, pp. 7a-58a).[1]

The evaluation process may vary depending upon the availability of prior information, and the decision reached may be affected by the length of time which the inmate is expected to serve in prison. Accordingly,

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[1]Chapter VII of the Inmate Classification Manual, which is not reproduced in the Appendix, contains provisions for other specialized transfers. In general, it concerns transfer of wards of other agencies who are handled in a cooperative relationship with offi-

different considerations come into focus depending upon whether the inmate is newly committed, has been returned following a parole violation, or is scheduled to be released within several months.

A variety of factors must be evaluated in determining the most appropriate institution for each inmate. Certain factors might be generally classified as rehabilitation needs. Included in this category are such considerations as vocational needs, educational needs, medical, dental, and psychiatric needs, facilitation of family visiting, and preparation for release. Other factors may be generally categorized as management and custody needs. Included within this general category are such concerns as the need for more secure housing, the need for less secure housing, the need to separate an inmate from enemies, the need to reduce prison gang affiliations, disciplinary concerns, the need to separate crime partners, and the need to afford an inmate protection from other prisoners. Another set of factors might be generally characterized as administrative needs. Included within this general category are such factors as the need at certain institutions for inmates who are qualified for certain work assignments, and the need to shift population due to a heavy intake, or the shifting of special programs from one institution to another institution, or the deactivation

cials of those agencies, and of inmates who are the responsibility of the Department of Corrections, but who require special transfer considerations. Included within the second category are exchanges of prisoners with the Federal Bureau of Prisons (Cal.Pen.Code § 2911), exchange of prisoners with other states (Cal.Pen.Code §§ 2911, 1190), inmates with death sentences, inmates with commuted death sentences, inmates serving life terms, and mentally ill inmates transferred to the Department of Health (Cal.Pen.Code §§ 2684-2685).



of a particular institution or a section of a particular institution.

In circumstances where a variety of these factors are relevant, the determination of the appropriate institution becomes more difficult and requires a balancing of the interests in rehabilitation, security, and proper administration of the prison system. Certain needs, such as the need for dental care, may be objectively determined. Other needs, such as the appropriate level of custody, must necessarily be based on an exercise of sound judgment and discretion. In some circumstances, the transfer determination can be made through procedures which necessarily require a certain time period for completion, whereas in other circumstances, an immediate decision is required. In some situations, it may be possible to clearly document the necessity for a transfer, whereas in other situations, prison administrators must exercise their discretion and determine whether the probability of serious difficulties or breaches of security is sufficiently high to warrant a transfer.

In summary, determining the appropriate institution in which each inmate is to be placed in a complex and difficult task. It is an area wherein the experience, knowledge, and judgment of the correctional officials who are charged with the responsibility of the welfare and security of the inmate is indispensable. "[I]n the current environment, where prison disruption remains a serious concern to administrators, . . ." (*Wolff v. McDonnell*, 418 U.S. 539, 568 (1974)), the development of standards and procedures should remain with the correctional authorities.

## III

**AT A TIME WHEN PRISON PRACTICES ARE DIVERSE AND EXPERIMENTAL, THE CONTINUED DEVELOPMENT OF PROCEDURES AND STANDARDS SHOULD REMAIN WITH THE OFFICIALS OF THE STATE PRISONS.**

The procedures utilized by the California Department of Corrections in arriving at determinations as to the appropriate institution in which each inmate should be placed have not remained static. Those procedures which are set forth in Appendix A, pp. 1a-6a, reflect relatively recent changes in the procedures utilized by the Department. Moreover, the implementation and operation of these procedures is the subject of an ongoing study.

Accordingly, it is submitted that "[t]he better course at this time, in a period when prisons' practices are diverse and somewhat experimental, is to leave these matters to the sound discretion of the officials of state prisons." *Wolff v. McDonnell,* 418 U.S. 539, 569 (1974).

The admonition of Chief Justice Burger in *Wheeler v. Montgomery,* 397 U.S. 280, 284 (1970) (Dissenting Opinion), is relevant to this action:

> "I can share the impatience of all who seek instant solutions, there is a great temptation in this area to frame remedies that seem fair and can be mandated forthwith as against administrative or congressional action that calls for careful and extended study. That is though too slow. But, however cumbersome or glacial, this is the procedure the Constitution contemplated."



**CONCLUSION**

Amicus submits that a person convicted of a crime and committed to state prison has no liberty or property interest in remaining in a particular institution. The formulation of standards and procedures for movement of inmates from one institution to another is a matter to be determined by state correctional officials.

Dated, San Francisco, California,
August 29, 1975.

Respectfully submitted

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**(Appendices Follow)**

# APPENDIX

## Appendix A

### INMATE CLASSIFICATION MANUAL OF THE DEPARTMENT OF CORRECTIONS

**Chapter IV, Institutional Organization of Classification**

SECTION CL-IV-03, CLASSIFICATION COMMITTEES: GENERAL CONSIDERATIONS.

A. *General Procedures*

1. The committee will use the central file, information presented by the inmate, and any pertinent reports available.
2. The inmate will make a personal appearance before the committee when feasible to participate fully and present a personal point of view or submit documents bearing on the proposed committee action. The reasons for any non-appearance will be documented.
3. A CDC Form 128-G will be prepared and a copy given the inmate in conformance with casework information validity and confidentiality procedures.
4. Committee decisions will be reached through group discussion and agreement. Subcommittees will refer cases in which agreement cannot be reached to the next higher committee.
5. The committee is to notify the inmate and relevant institution personnel of actions taken.
6. The warden/superintendent can defer actions of the committee if the safety of the institution requires this.

B. *Fairness Procedures*

Classification actions that result in a substantial adverse alteration of an inmate's condition of confinement will require the following procedures:

1. Written notice of the proposed action and the reasons for it will be given to the inmate at least 24 hours before the classification hearing when it is known in advance that the proposal is for an action which is adverse to the inmate.
2. A delay of at least 24 hours in the classification hearing will be granted upon the inmate's request when an unanticipated adverse classification action is proposed in the course of a classification hearing. The inmate will be given the required written statement and 24-hour notice.
3. When the classification committee determines that an inmate is unable to prepare a defense against the proposed action, or the situation is complex, the matter will be referred to the inmate's caseworker or to an investigating officer for assistance.
4. Emergency lockups and transfers will not require advance notice but inmates must have full opportunity to present their side at the classification meeting following the action. The reasons for the emergency action will be given to the inmate in writing as soon as



possible after the action was taken and before his or her appearance at the hearing.

5. The inmate may give up his or her right to 24 hours notice. Such a waiver will be documented.

C. *Definitions of "Substantial Adverse Effect"*

Actions having a substantial adverse effect on conditions of confinement are defined as follows:

1. Transfer to another institution for the purpose of providing more restrictive custody.
2. Increase in custody level.
3. Involuntary assignment to a security housing unit by a classification committee.
4. Involuntary removal from a program by classification committee action.

These actions may be taken on a temporary emergency basis when necessary without prior notification.

When taken at the Reception Center, these actions are not considered to have a substantial adverse effect on an inmate's condition of confinement.

D. *Form of Notice*

Means of notification of a proposed adverse classification action will be by copy of a CDC Form 128-B, which may be preprinted in part or entirely handwritten:

NOTICE OF CLASSIFICATION HEARING

Inmate ..... Date.....

You will appear before a classification committee on ..... for consideration of a major program change as follows:

Transfer ..... Increase in Cutody.....

Assignment to Security Housing .....

Removel From Program .....

Other .....

Reasons:

.....

Staff Name and Title

Orig. to Class. Comm.
cc to Inmate

The CDC Form 128-B can be initiated by any designated employee but would be prepared typically by the employee who is referring the inmate to the committee.

E. *Effect of Unresolved Disciplinary Proceedings*

When the reasons for the proposed classification action include matters which are the subject of an unresolved disciplinary charge, a copy of the CDC Form 115 will be attached to the CDC Form 128-B. The "reasons" section of the CDC Form 128-B may incorporate the information contained in the CDC Form 115 by a cross reference. The classification committee may act, or may postpone action until the disciplinary



committee has acted. Until the disciplinary charge has been resolved, the facts stated in the CDC Form 115 will be assumed to be true, and the classification committee may consider the nature of the charges in reaching its decision.

F. *Effect of Completed Disciplinary Proceedings*

After resolution of disciplinary charges, the classification committee at its next regular meeting will review the disciplinary findings to determine whether further action is appropriate. If a further action with a substantial adverse effect is to be considered, a copy of the completed CDC Form 115 will be attached to the CDC Form 128-B. The "reasons" section of the notice form may incorporate the disciplinary information by a cross-reference as well as include any other reasons for considering the action. Any findings of the disciplinary committee will be accepted as true.

G. *General Composition of Classification Committees*

Because of the importance of the classification process and the key decisions which must be made, senior, experienced staff members will be assigned. Inexperienced staff members may be assigned on an in-service training basis but not to fulfill any of the major positions on the committee. For example, a correctional sergeant might be assigned to a committee but only in

addition to the higher custodial representative ordinarily present.

The following manual sections contain suggested compositions for the various classification committees. Logical alternate members have been listed for each committee in brackets following the primary members.

Unless specifically stated, the listed committee composition is not mandatory but may be adjusted to fit the particular needs of individual institutions. The composition of each institution classification committee will be approved by the Director as part of the institution classification plan (CL-IV-01.)

All CDC 128-G's reflecting a committee action for transfer recommendation should be signed by the program administrator responsible for the unit housing the inmate or the chairman of the committee recommending the transfer (this is usually at the program administrator level or higher per established policy.)

In the absence of the program administrator or the chairman of the committee, another member of the committee will be designated to sign or initial the CDC 128-G recommending transfer.



## Appendix B

### INMATE CLASSIFICATION MANUAL OF THE DEPARTMENT OF CORRECTIONS

### Chapter VI, General Transfer Procedures

CL-VI-00 INTRODUCTION

This chapter contains policies and procedures relating to the transfer of adult male offenders, under circumstances that are generally routine. Under the provision of Section 5079 and 5080 of the Penal Code, all transfer actions are the responsibility of the Director of Corrections, the detail of which he may delegate to certain staff members as outlined in this Manual.

CL-VI-01 RECEPTION-GUIDANCE CENTERS, CLASSIFICATION AND TRANSFER POLICIES

The Superintendents of institutions under the juisdiction of the Director of Corrections in which Reception-Guidance Centers are located have full administrative responsibility for the operation of such facilities. Each of the Associate Superintendents in charge of these Reception-Guidance Centers is directly responsible to the institutional head in all matters pertaining to the operation of his unit. He shall report directly to the Superintendent in the same manner as do other Associate Superintendents or heads of major institutional divisions.

The Deputy Director, Program and Staff Services and the employees under his supervision

serve in a staff capacity as members of the Director's staff. The Deputy Director, Program and Staff Services gives technical supervision to the clinical studies of inmates in the Reception-Guidance Centers in the same manner that he and other members of his staff give technical supervision to all phases of the classification and treatment programs in the institutions.

Notwithstanding the authority delegated to the Departmental Classification Staff in the foregoing sections to issue instructions for transfers and to place inmates on eligible lists, it shall be the duty of each member of the Departmental Classification Staff to withhold approval and to transmit to the Director any recommendation which in his judgment is a matter for policy determination.

CL-VI-02 TRANSFERS FROM RECEPTION-GUIDANCE CENTERS REQUIRING CLASSIFICATION STAFF REVIEW

Inmates recommended for transfer by the Reception-Guidance Center staff to the following institutions:

California Correctional Institution
California Institution for Men
California Medical Facility
California Mens Colony
California Rehabilitation Center Work Crew
Correctional Training Facility—North
Deuel Vocational Institution
Reception-Guidance Center Work Crew—CIM, CMF, CVI



California Conservation Center
Southern Conservation Center
Sierra Conservation Center

will be presented to a Classification Staff Representative. He shall review the entire file and consider the summary in the light of available information to determine its adequacy for the use of Adult Authority and institutional personnel. If the summary is considered adequate and the recommendations are consistent with Departmental policy, the Classification Staff Representative will place the inmate on Transfer Order CDC Form 246. The placement of an inmate's name on a CDC-246, Transfer Order, by a Classification Staff Representative shall constitute The Director's approval of the program recommended by the Reception-Guidance Center Staff, as required by Penal Code Section 5079. If the summary contains remediable deficiencies, the file is returned to the responsible Reception-Guidance Center staff member for correction. If staff recommendations are considered inappropriate or not feasible, the Classification Staff Representative will enter his proposed modification in a supplemental entry to the Cumulative Case Summary indicating his reasons. The proposal will be made available to the Associate Superintendent, Reception-Guidance Center, for his information and review. If he disagrees with the proposed change, he is authorized to defer movement of the inmate pending notification of the Chief,

Classification Services. All other transfers, as approved by the Classification Staff, are moved on the first available transportation. Transfers from the Reception-Guidance Centers receive first priority on Departmental transportation and institutional space.

CL-VI-03 Transfer From Reception-Guidance Center—Associate Superintendent Review

Inmates recommended by the Reception-Guidance Center staff for transfer to the following institutions:

Folsom
San Quentin
Correctional Training Facility—Central

will be presented to the Associate Superintendent, Reception-Guidance Center for his review. He will follow the general procedures outlined above, reviewing each case carefully for its adequacy for use of the Adult Authority and institution personnel. Those transfers which he is willing to approve, will be placed on Transfer Orders CDC Form 246. The placement of an inmate's name on a CDC Form 246, Transfer Order, by an Associate Superintendent shall constitute the Director's approval of the program recommended by the Reception-Guidance Center staff, as required by Penal Code Section 5079. The Associate Superintendent has the responsibility to bring to the attention of his staff incomplete or inadequate casework.



It is reasonable to expect that the Associate Superintendents will not personally review each Reception-Guidance Center case. The responsibility for the review and for conformance with Departmental policies and procedures remains with the Associate Superintendent. The Associate Superintendent / Superintendent will sign all Transfer Orders.

In cases which pose particularly difficult placement or management problems, or where the designation is as a special case, the Associate Superintendent will present the case to a Classification Staff Representative.

The Associate Superintendent in his review also has the responsibility of modifying transfer recommendations in line with Departmental population needs, work crew needs and other specialized problems.

CL-VI-04 Processing of Transfer Orders (CDC Form 246)

After the cases have been listed on the CDC 246 (Transfer Order), the CDC 246 will be signed at the top by the Associate Superintendent. Authority to sign the 246 may be delegated to the Correctional Counselor III or to the Reception-Guidance Center Records Officer. Cases reviewed and approved by the Associate Superintendent Reception-Guidance Center will be signed at the bottom by him for the Director of Corrections. Transfer Orders listing cases reviewed by a

Classification Staff Representative, will be signed by the Classification Staff Representative for the Director of Corrections.

Following signature, the two copies of CDC 246 will be distributed as follows:

*Original:* To the Departmental Records Officer.

*Duplicate:* To the Associate Superintendent/Superintendent of the institution where the Reception-Guidance Center is located. This copy will be retained only until all inmates listed have been transferred.

Transfer orders and eligible lists emanating from Central Office will be processed and distributed by the Departmental Classification staff.

Whenever Transfer Orders (CDC 246) or Eligible lists (CDC 255, 256-A, 256-B) are changed by addition, deletion, or corrections, the Departmental Classification staff member approving the order will initial each such modification. All blank space on the above forms is to be lined through in such a manner as to prevent the possibility of names being added after the Departmental Classification staff member has signed the order.

*Retention of Inmates in the Reception Centers and Institutions after Case Completion*

It is of prime importance that cases do not remain in the Reception Centers more than two weeks after completion while awaiting transportation. The Reception Centers, therefore, are to report on a weekly basis to the Chief, Classification Services, Central Office, on all cases that have been in the Reception Center longer than two weeks after the signing of the transfer orders by the Classification Staff Representative. Institutional Records Officers are to report likewise on all cases awaiting transfer longer than four weeks.



This should be done on the regular weekly population teletype indicating the number of cases by institution approved for transfer. Where transfer is delayed by virtue of Departmental Review Board referral, the case also should be listed by name and number and designated as Departmental Review Board.

CL-VI-05 Parole Violators

In general, parole violators are classified and transferred in the same manner as new commitments. At the time of reception, however, they may be processed selectively in accordance with the provisions of the Cumulative Case Summary Manual, CS-VII-08. Selective processing is feasible because of the large amount of information already available on many parole violators, combined with evidence that little or no significant change has occured since the previous evaluation. Many parole violators will have had prior minimum custody experience. They may be recommended either for return to a minimum custody situation or for early minimum or camp placement. Where case factors indicate that a parole

violator with a new commitment is likely to serve a lengthy sentence, he should not be initially transferred to a minimum custody institution.

*Parole Violators with New Terms*

Parole violators with new terms (PV-WNT) will be processed at the SRC*, with the exception of certain medical or psychiatric cases which may require placement at California Medical Facility. Temporary case overload at SRC may on occasion be transferred to Northern Reception Center (NRC) for PV/WNT processing. Those routinely at other institutions will be transferred to SRC.

*Parole Violators to Finish Term*

Parole Violators to Finish Term (PV-TFT) from Parole and Community Services, Region I and Region II will be processed at San Quentin New Process Unit (NPU); Parole and Community Services, Region III and Region IV at CIM-Reception Center West (RCW). The latter (RCW process cases) will be delivered to CIM-RCW and SRC will maintain approximately 60 beds for those requiring close custody during their processing at RCW.

In both units PV-TFT will receive case work services from inside-outside parole agents and auxiliary staff assigned to the RCW in accordance with established procedures.

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*Southern Reception Center



Following the diagnostic work-up, PV-TFT will appear before the Adult Authority for parole revocation hearing. If parole is revoked and a new parole release date of six months or *less* from the date of the hearing is granted, the PV-TFT will remain in RCW for post-board classification action and a short-term program (STP). Those who are placed on an Adult Authority rehearing calendar *more* than 6 months from the date of the revocation hearing, or who are denied a release date, will be recommended by the post-board classification committe for transfer to a CDC facility where their custody and program needs may best be met.

The parole processing units at CIM-RCW and San Quentin are also designated as Controlled Substance Treatment Units (CSTU-Health & Safety Code, Section 11560 and 11561), processing non-suspended PV's formerly designated NTCU.

Those returned from Parole and Community Services, Regions I and II will be processed at San Quentin those returned from Parole and Community Services, Regions III and IV will be processed at CIM. The former will be received directly at San Quentin and processed by a designated NPU staff member. The latter, from Regions III and IV will be delivered to SRC for initial custody screening prior to transfer to RCW-CSTU. Processing will include initial interview, advising the parolee of his legal status and discussion of his housing and program. The

release program will be prepared and presented to the Parole and Community Services agent for presentation to the Adult Authority.

*Pick Up by Departmental Bus*

Arrangement for the Departmental bus to pick up technical parole violators at county jails located along the normal routes may be made by the Chief, Parole and Community Services Division, in conjunction with the Chief, Classification Services. Such parole violators will be immediately transferred to either the SRC or San Quentin, depending upon the Parole and Community Services region of parole assignment.

*Disposition of Ill Parole Violators*

Parole violators who are suffering from tuberculosis may be sent to San Quentin; parole violators who are acutely mentally ill may be sent directly to the Medical Facility; or, when requested by the Adult Authority, parole violators requiring special diagnosis and treatment available only at a specific institution, may be delivered directly to that institution after clearance with the Chief, Parole and Community Services Division and on approval by the Director. A copy of the order directing the parole violator's return, a report which includes the medical needs and recommendations and a cumulative case summary with photograph will be delivered with the parole violator.



*Limitations on Return of Parolees*

A parolee may be returned to an institution of the Department of Corrections for temporary emergency medical attention without his parole being suspended, cancelled, or revoked. Acceptance of such cases shall be at the discretion of the Warden/Superintendent or his delegate upon the request of an authorized parole agent with the concurrence of his supervisor.

Whenever possible, requests and transfers will be made during a normal work day when medical staff are on duty. When it is necessary to effect a move during other than normal times, i.e., nights, weekends, holidays, approval for the acceptance of a parolee will rest with the administrative officer of the day or medical officer of the day in institutions that maintain staff medical officers on a 24-hour basis. The duty officer who approves an emergency move will be responsible for a follow-up notification to the institution Classification and Parole Representative on the next work day, for purposes of attaining necessary records and to insure the case will be brought to the Adult Authority's attention at their next scheduled meeting. When the parolee reaches the stage of medical clearance, the Classification and Parole Representative of the holding institution will notify the district parole agent to effect a removal from the institution by a reinstatement on parole or other appropriate action as stipulated on the initial order placing him in the institution.

A parolee may be returned to an institution of the Department of Corrections for temporary psychiatric attention under non-suspended conditions. Such a transfer must be coordinated by the regional Morrissey-Gagnon coordinator (Parole Agent II) and the receiving institution Warden/Superintendent or his delegate. The physical transfer of a parolee shall be warranted only after a "placement hearing" has been conducted in the community by the Adult Authority, whereas conclusions have been documented that a return for psychiatric attention is ordered. A parolee may waive his placement hearing making action for the Adult Authority valid without a formal hearing.

Prior to physical transfer of the parolee, the regional coordinator (Parole Agent II) will provide the receiving institution with copies of the field parole agent's report relating to the behavioral aspects of the parolee which drew attention to the need for psychiatric attention, the psychiatric report completed by the out-patient clinic and the placement hearing results endorsed by the Adult Authority (CDC 266-G).

Parolees returned for psychiatric reasons to a CDC institution may be confined for a period of up to 90 days without suspension of parole. Whenever the parolee's psychiatric condition warrants, he will be re-paroled within a period of 90 days without further Board action. Institution staff will process the case in accordance with standard RUAPP procedures. If his psychiatric condition does not warrant re-parole, he will be scheduled for a full revocation hearing at the institution prior to the expiration of the 90 day period.



A parolee returned for psychiatric attention may be returned at times and days other than normal institutional work days if prior agreement with the delegated staff member who handles such cases is made.

*Disposition of Parolees Surrendering at Institution*

When an individual identifying himself as a parole violator arrives at the entrance of an institution and requests admittance, he shall be interview by a staff member, preferably a correctional counselor. Facts concerning his original offense, length of time on parole, criminal or technical violation while on parole and reason for the surrender shall be determined. The correctional counselor should ascertain that the person is a parolee by referring to institutional records or by contacting one of the following:

1. Identification Unit
   Room 579, 714 "P" Street
   Sacramento
2. The unit office of the Parole and Community Services Division under which the individual was supervised.
3. The parole regional office having jurisdiction over the district office.

The sheriff, or if more convenient, the chief of police of the nearest city, shall be notified and requested to take the parolee into custody pending disposition by the Parole and Community Services Division.

The parole agent supervising the area in which the institution is located shall be immediately notified and given all available information.

*Short-Term Return*

Since the institutional stay of a short-term return case may vary from one to six months, institutional programming to effect attitudinal or behavioral changes will normally not receive first priority. Many of these cases can be programmed by a demanding work situation coupled with frequent group sessions focused on reasons for the parole failure. Other cases, of course, will call for family counseling, Alcoholics Anonymous, and in some cases, brush-up courses in vocational training, etc., depending on the needs of individual cases.

The reinstatement of these cases on parole will depend, in part, on the adjustment in the short-term return status and party upon circumstances in the community as defined by the parole agent. Consequently, the decision to submit for reinstatement upon parole will be a joint decision by the parole agent and institutional staff.



*Eligibility*

PV-TFT cases are eligible for short-term return consideration except for the following:

A. Cases where the parole behavior included violence or threat of violence and there is a prior history of violence.

B. Cases where there was significant narcotic involvement, either during the current parole or in the criminal record of the past several years. CSTU is the preferred place for these cases.

C. All cases requiring psychiatric review and report prior to release.

D. All cases where there is evidence or strong suspicion that a major felony was committed during the current violation episode.

I. *Report Preparation*

A. Records Officers working with NPU staff will be responsible for updating the legal aspects of the case.

B. RCW staff at CIM and NPU Staff at San Quentin will handle all short-term return cases. Responsibilities are as follows:

1. Revise and update the case summary sheet in accordance with CS-XI of the Cumulative Case Summary Manual.

2. Serve the inmate with his parole violation charges.

3. Advise the inmate of his rights under provisions of the Supreme Court decisions, *Morrissey vs. Brewer* and *Gagnon vs. Scarpelli.*
4. Prepare a staff evaluation and recommendation page. This report should evaluate the reasons for the parole violation and speak to *realistic* programs that will assist the inmate in a rapid return to parole.
5. Institutions are encouraged to develop short-term work programs and other assignments that would approximate the inmate's employment pattern while on parole, e. g., service station attendant, cook, window washer, etc.

II. *Parole Violation Hearing at the Institutions*

At the earliest practical scheduled Adult Authority calendar the inmate will appear for consideration and determination of charges at a parole violation hearing (PV-TFT have the right to request an attorney and witnesses to appear in their behalf at their revocation hearings before the Adult Authority). Case factors will determine one of the following decisions:

A. Release Upon Approved Parole Plan (RUAPP) re-parole upon establishment of a parole program.



B. Receive a reparole date of six (6) months or less; in which case he will, in most cases, be assigned by the NPU post-Board classification committee to a short-term program at either San Quentin or CIM.

C. Receive a reparoie date or rehearing date of six (6) months or more; in which case he will be recommended for transfer to an appropriate CDC facility by the NPU post-board classification committee.

III. *Removal from NPU*

While removal from NPU is contingent entirely on inmate's behavior and adjustment in the unit, if an inmate is found to be unsuitable for the program, the case will be referred to the Adult Authority on the Special Proceedings Calendar. If term of inmate has been fixed and parole granted, procedures in accordance with the Staff Representatives Manual (SR-5-02) will be followed.

If inmate is transferred out of unit for security or disciplinary reasons, the staff will forward details and documentation to receiving institution for Adult Authority Special Proceedings Calendar review. The NPU classification committee will effect case transfers.

IV. *Program Measurement*

The Research Division, in consultation with NPU administrative staff, will devise a system to evaluate the NPU program.

CL-VI-06 Transfer Between Institutions—Classification Staff Review

When the transfer of inmates between institutions is deemed necessary, a classification committee recommendation for transfer will be submitted to a Classification Staff Representative on chrono form CDC 128-G. In order for a Classification Staff Representative and receiving institution staff to understand the reason(s) for transfer, the CDC 128-G transfer chrono should contain the following elements:

a) Current custody, housing and program.

b) Date of next Board appearance. If Board date is not applicable because of a granted parole and/or discharge date, the release date should be shown.

c) Identity of the classification committee recommending the transfer.

d) Reason(s) for transfer recommendation.

e) Institution to which a transfer is recommended. If an alternate institution is proposed, give the order of transfer priority.

f) When applicable, the name, number and current location of enemies.



g) When applicable, indicate if subject is on a regime of tranquilizers.

h) A proposed program for the guidance of the receiving institution. This may include suggestions for custody, work assignment and training.

The above elements are intended as a working guide for an institutional classification committee in preparing the transfer chrono. Ideally, the review of the transfer chrono should give the Classification Staff Representatives sufficient information for a decision. There should be no need for the Classification Staff Representative to refer or be referred to other chronos, memos or other documentation to complete his review. The mention of unavailable, confidential information as a rationale for transfer should be avoided and will be deemed as unacceptable information by the reviewing Classification Staff Representative. At times, in marginal cases, where there appears to be serious doubt as to the receiving institution's ability to readily place an inmate in a recommended program, work crew assignment or general population (when indicated), communication between institutions can be helpful in clarifying matters prior to Classification Staff review.

*Sample Transfer Chrono*

No. B-000 Name Jones October 1968 AA

Custody: Minimum *Recommend CIM*

Assignment: Academic/Farm Crew

Comments: Jones will complete his elementary education requirements by June 1968. He will, therefore, become eligible for specialized farm training (tractor driving). Transfer recommendation is made for CIM where Jones can continue his release preparation training. CIM staff aware of situation and are willing to place Jones in the recommended program.

Date: May 10, 1968 Unit I Re-Classification

CDC-128-G (23512) 1st.: San Quentin

After review of the inmate's file, the Classification Staff Representative will initial the chrono form CDC-128-G in all cases of those recommendations he is willing to approve. All cases approved for transfer are placed on Transfer Orders (CDC-246). Where he is unwilling to approve the recommendation or wishes to propose a modification, he will prepare a chrono form (CDC-128-G) containing the following elements:

a) Reasons for disapproval and proposed modification.

b) Suggested alternatives to the classification committee's proposal.

If the disapproval or proposed modification is not accepted by the classification committee or its designated representative, referral may be made to the Chief, Classification Services, by the committee. Such referrals shall be in the form of a complete statement of the situation taking into consideration the views of the Classification Staff Representative. If the Chief, Classification Services, concurs with the classification committee, he may order the proposed transfer. If he does not concur, he may submit the case to the Departmental Review Board; or a report may be returned to the classification committee detailing the reasons for rejection. The classification committee may then with the approval of the Warden/Superintendent submit the case to the Departmental Review Board.



CDC 246 (Transfer Order) will be handled in the same way as in Section CL-VI-04.

*Transfers within Sixty Days of Release or Board Dates*

Except in emergency situations or transfers to special units, inmates will not be transferred within 60 days of release date or within 60 days from the first of the month of their board date: e.g., a man with a December Adult Authority appearance would not be moved after the thirtieth of September.

If transfer is judged to be necessary because of emergency situation or placement in a special unit within the 60 days to a board appearance, then

the appropriate board report will be completed by the sending institution prior to transfer.

Particular emphasis is placed upon the importance of institution notifying the Adult Authority as early as possible of additions to monthly calendars. Appropriate estimates should be used to avoid late and large additions of cases.

*Warden/Superintendent Halting a Transfer*

Where the Warden or Superintendent believes that due to health conditions or other emergency reasons an inmate should not proceed on scheduled transfer, he may remove such an inmate from the bus and hold him at the institution. The reason for such action will be reported by letter to the Director of Corrections. If the Warden or Superintendent also believes that the transfer order previously issued on the inmate be rescinded, then such statement, with reasons, will be given.

*Delays in Transfer*

When an inmate has been approved for transfer, movement to the transfer institution should be effected without delay. If transfer has not occurred within thirty days after approval, the sending institution will submit a report to the Chief, Classification Services, setting forth the date of the approval and the primary reason for the delay. Special transfer consideration such as *work crew, Adjustment Center, psychiatric treatment,* will be indicated as needed. Upon receipt of such notification, the Chief, Classification Services, will issue instructions to the sending institution to make the indicated movement, to rescind the transfer order, or to submit an alternative transfer recommendation.



## CL-VI-07 Transfers to Conservation Camps—Joint Classification Committee Review

Only institutions which are operating conservation camps may process inmates directly for camp (CL-XV-05). Where a classification committee desires to prepare the assignment of an inmate to a camp program, recommendation for inter-institutional transfer shall be made in accordance with CL-VI-06 indicating conservation center placement or in the case of Camp Cuesta, CMC-West transfer.

When an institution has been instructed by the Chief, Classification Services to furnish inmates for the conservation program, a joint classification committee meeting may be arranged with the participation of a Classification Staff Representative to select inmates for such an assignment.

The joint classification committee recommendations for the assignment to the conservation program will be submitted to the Classification Staff Representative on a chrono form CDC-128-G. The chrono will contain the following elements:

a) Inmate's qualifications for the conservation program.

b) Statement of medical and dental clearance.

c) The next Adult Authority appearance. If a parole or discharge date has been granted, the date of release.

d) Reconciliation of any apparent contraindications to conservation placement.

On review, the Classification Staff Representative shall initial the chrono form CDC-128-G in the cases of those inmates whose assignment to the conservation program he is willing to approve. If he is unwilling to approve, he shall so indicate in a supplemental chrono entry. Such entries must contain the following elements:

a) Reasons for disapproval.

b) Suggested alternatives.

If the classification committee is unwilling to accept the disapproval of the Classification Staff Representative, referral of the entire situation to the Chief, Classification Services may be made. The Chief, Classification Services may authorize the assignment if he agrees with the classification committee or may submit the case to the Departmental Review Board for a recommendation to the Director.



CL-VI-08 TRANSFER TO CONSERVATION CENTER CAMPS SUPERINTENDENT/ASSOCIATE SUPERINTENDENT REVIEW

The classification committees of the Conservation Centers shall submit to the Superintendent/Associate Superintendent men recommended for assignment to a conservation camp. The Superintendent/Associate Superintendent is responsible for the review of the records and for approval of these men designated for camp placement. He will delete names of men he is unwilling to approve.

Men thus approved will be listed on CDC Form 256-A and signed by the Superintendent/Associate Superintendent for the Director of Corrections.

CDC Form 256-A (Camp Transfers) will be distributed as follows:

*Original*—To Departmental Records Officer for permanent file in Central Office records section. The Departmental Records Officer will post the CDC 256-A list to CDC-149, Central Office inmate record card.

*Duplicate*—To the Warden/Superintendent of the institution from which the men are to be assigned. This copy needs to be retained only as long as the list is effective.

CL-VI-09 INMATES ASSIGNED TO INSTITUTIONAL WORK CREWS

The appropriate assignment of skilled inmates to work crews at the various institutions will be co-

ordinated by the Departmental Classification Staff. Inmates transferred to a particular institution for use in specialized work crew categories will be used in their appropriate skills. If inmates are not used in their appropriate skills as indicated at the time of transfer, they will be presented to the Departmental Classification Staff for consideration for transfer to an institution needing such skills. If an institution wishes to retain a work crew inmate, even though his specialized skills are not being utilized, they should present such cases to the Classification Staff Representative for his evaluation.

Inmates who have practiced medicine, including psychiatry or dentistry, as doctors prior to incarceration will not be assigned to hospitals or laboratories where their prior knowledge and skill can be manipulated by other inmates to the detriment of the program. However, with special approval of the Superintendent, after considering all factors, it is possible for them to be assigned to the hospital or laboratory where their skills can be utilized to benefit all concerned.

CL-VI-10 TEMPORARY COMMUNITY RELEASE

Inmates may leave departmental institutions for approved purposes only after such leaves have been approved in writing by the institutional head or administrator at a level no lower than Correctional Administrator, to whom such authority has been delegated by the institution head.



Leave will be authorized for a period no longer than necessary to accomplish the stated and approved purpose(s). The maximum limit of three days authorized by California Penal Code Section 2690 as amended, effective January 1, 1972, is strictly interpreted as 72 hours and is counted from time of departure from the institution to time of return to that institution. Under statutory limitations, no extension of time may be legally granted. All travel routes, destinations and terminals must be within the state.

Temporary Community Releases may be approved for the following:

A. *Family Emergencies (immediate family only)*

Defined as emergency leave requests are those involving a funeral, a bedside visit to a critically ill member, or a court hearing concerning a dependent child where inmate's presence has been requested by an official agency.

1. Upon receipt of a court order directing temporary release for an inmate for funeral attendance or other purpose not directly related to a criminal court proceeding, the institution will immediately contact the office of the Deputy Director, Program and Policy, for final approval.
2. The need for such leave will be verified by the institution head or his delegate by contact with the funeral director, attending physician, court officials or other appropriate

sources. Departmental field services may be requested to assist in verification.

B. *Pre-Release Planning Leaves*

This type of leave is primarily for those with established parole dates, but inmates with discharge date may be eligible if approved by an administrator for acceptance into his community correctional center; (See PR-V). Leave requests may be initiated by either parole or institutional staff, but must be concurred in by both. Expenses of the leave must be borne by the inmate. Leave may be authorized for the following purposes.

1. Employment interviews.
2. Making residential arrangements.
3. Taking employment examinations.
4. Obtaining necessary licenses.
5. Registering in an academic or vocational program to commence after established release date.
6. Handling business matters related to reentry obstacles.

The following inmate categories are ineligible for temporary community release:

1. Those serving sentence of Life Without Possibility of Parole.
2. Those who are considered by the institution head to be serious custody risks, i.e.,



potential escapees, makers of verified threats (to victims, witnesses, family members, staff or other officials), or those who exhibit a continuing pattern of aggressive behavior.

3. Wards of the Departments of Health and the California Youth Authority.
4. Out-of-state prisoners, pre-sentence diagnostic cases or safekeeping prisoners.
5. Federal prisoners who do not have minimum custody.
6. Not generally considered for temporary community release, but may be granted under escort after individual appraisals are:
   a. Psychiatric cases documented by the chief psychiatrist as not a menace to others.
   b. Security segregation cases carefully evaluated by the institution head as in protective custody for self-protection only.
   c. Inmates with detainer or holds filed against them.
   d. Inmates identified with large-scale organized crime, with notorious crimes of violence or whose presence in the community is deemed likely to evoke adverse reactions toward the state or toward himself.

e. Sex offenders.

f. Inmates classified as other than minimum custody.

g. Inmates with minimum parole eligibility of seven or more years will be considered for funerals only.

h. Lack of funds or escort personnel may also be a basis for denial of leave.

Prior to requesting and/or obtaining the authorization for temporary community release, a detailed leave plan will be prepared (by the Classification and Parole Representative) on the proper form, CDC 1549. This plan will include the purpose of the proposed trip, the destination, travel arrangements (bus, plane, train, state car, etc.), phone number(s) and address(es) where the inmate may be contacted at all times, a budget explaining costs and the inmate's signature indicating acceptance of the "Conditions of Temporary Release". This inclusive information will be submitted as early as possible to permit verification and communication with field personnel where required. Prior to the inmate's departure, the Regional Parole Administrator will be notified.

Institutions will maintain chronological logs for temporary community releases, listing the inmate's name and number, date and time of departure, scheduled return and actual return.



Staff member making the entry will sign and date. Since leave expenses are borne by the inmate, including escort costs where necessary, he will sign a trust withdrawal authorization in the amount of anticipated expenses prior to his departure, if he has sufficient funds to his credit. Funds donated by family or friends may be deposited to this account and/or the expenses may be charged against pre-release funds.

Escorted leave will not be authorized in any situation under temporary community release in which weapons or restraint gear are required to maintain control or security. When escorted leave is authorized, the escorting employee(s) will be paid in accordance with current payroll requirements. Meals and other approved personal expenses will be reimbursed in accordance with Board of Control Rules and departmental policy. If escorted leave is volunteered, the employee is considered to be on duty for purposes of Workmen's Compensation and/or other employee protection and benefit.

In escort leaves, transportation will be via state vehicle or public transportation. If the inmate is unable to pay, and if escort is volunteered, a state vehicle may be provided. Escorted leaves exceeding one calendar day will be contingent upon official pre-arrangement for overnight lodging of the inmate in a departmental institution if convenient, or in an appropriate local jail. Costs will be reflected in the leave budget. Upon

his return, the inmate will be interviewed and the post-audit portion of CDC Form 1549 (Request for Temporary Community Release) will be completed within two working days.

*63-0 Days*

Leave for pre-release planning within 63 days of parole must be jointly approved at an institutional level no lower than a Correctional Administrator and by the involved parole unit supervisor. If either is absent, approval will be given only by the person formally designated in the acting capacity.

*90-64 Days*

In exceptional cases, i.e., taking scheduled civil service examinations, special types of employment interviews, college enrollment or examinations, etc., where it has been verified that the event will *not* be scheduled during the 63-0-day period or after release, leaves may be authorized for the period 90-64 days prior to scheduled release. This exceptional leave must be personally jointly approved at the institution head/Regional Parole Administrator level, and will be reported in writing, listing the reason(s) to the Field Representative, Re-Entry Program, P&CS Division.

*Consecutive Leaves*

In rare instances related to pre-release planning, a second, limited leave immediately consecutive



to the first may become necessary. A consecutive leave may not be granted until the preceding one has been completed by return of the inmate to departmental custody. Where the inmate's return to the institution is prevented by unavoidable circumstances, he must make face-to-face contact with a departmental employee *prior* to the specified termination time in order to legally complete the first leave by constructive return to custody. If the employee contacted face-to-face observes any reason for discontinuing the leave, he is to place the inmate into custody at the nearest facility. Consecutive leaves may be personally authorized only by joint agreement of the institution head and Regional Parole Administrator or at a higher level. Each such leave must be reported in writing, explaining the circumstances, to the Field Representative, Re-Entry Program, Parole and Community Services Division.

*Safeguards Against Introduction of Contraband—All Categories*

Each departmental unit will specify in its procedures the appropriate measures taken to prevent introduction of contraband upon return of the inmate from leave.

*Failure to Return—All Categories*

Inmates who fail to return from leave within the designated period will be charged with escape from the custody of the institution head. When

notified that an inmate's return at the appointed time is unavoidably delayed, the institution head will be responsible for having the inmate placed into custody at the nearest California Department of Corrections facility at the earliest possible time.

A memo of each such event noting the action taken and the result will be forwarded to the Field Representative, Institution Community Re-Entry Division, within one working day.

*College Attendance*—Temporary Community Release for the purpose of attending college classes is authorized by Section 2690 of the Penal Code, amended by Senate Bill 1376. Educational leaves granted under this section are to be personally approved by the Director.

CL-VI-11 TEMPORARY REMOVAL FROM INSTITUTIONS

Under California Penal Code Section 2690, the Director of Corrections may authorize the temporary removal under custody of any inmate for the following purposes:

A. *Off-reservation work detail*—Removal under custody for the purpose of employment in any work directly connected with the administration, management or maintenance of the institution. Names of inmates recommended for off-reservation work detail by the institution classification committee or sub-committee will be listed on CDC Form 255, ORWD, Eligible List, in duplicate and presented to the institution head for review. The institution head will delete those inmates he is unwilling to approve, and sign his approval for the remainder. A copy will be forwarded to the Chief Records Officer.



Approved inmates may leave the institution under supervision of an employee. California Youth Authority wards in adult institutions shall not be recommended by institution classification committees or subcommittees for off-reservation assignments. Authorization may be requested on CDC Form 255, but these temporary removals will be effective only upon the basis of blanket authorization by the Youth Authority instead of under Section 2690 of the Penal Code, and the wording on CDC Form 255 will be changed accordingly.

B. *Community Betterment and/or Delinquency Prevention Programs*—Participation is limited to one day only, under escort and not overnight. Selection of participants for these programs will be made by personnel assigned for that purpose. The intent of the program is neither to glorify the crime or the criminal nor to be negatively critical of the law and law enforcement agencies, but to orient communities to the consequences of delinquency and crime. Responsibility for the administration, supervision and evaluation of the program is that of the superinten-

dent/warden. Approval shall be made on a one-day basis only.

C. *Medical Treatment*

Inmates may be removed for medical or special psychiatric examination, diagnosis, treatment or medical research purposes. Each case shall be certified by the Chief Medical Officer of the institution where the inmate is housed, and removal may be under custody. The inmate may be required to reimburse the state in whole or in part for expenses incurred by the state for other than medical treatment. Approval may be given by the institution head upon recommendation by the institution's Chief Medical Officer. (X-reference—Section 345, Administrative Manual.)

Except in the case of medical treatment, such removal shall not be for a period longer than three days.

D. *Emergency Fire Fighting*

Each institution will maintain a list of men eligible for emergency fire fighting according to quotas periodically issued by the Director of Corrections.

The institution classification committee lists those men recommended for emergency fire fighting duty on CDC Form 256-B, Fire Fighting Eligible List, in duplicate. This list



is submitted to the Warden/Superintendent or Associate Warden/Superintendent designated for his review and approval. Names of men not approved will be deleted. The official designated will sign his approval on CDC Form 256-B.

The original of CDC Form 256-B will be transmitted to the Chief Records Officer for permanent file. The duplicate will be retained in the institution for as long as the list is effective.

Men approved for assignment to emergency fire fighting may leave the institution on the signed orders of the Warden/Superintendent. The Director is to be notified by teletype of each such departure.

CDC Form 254, Camp Descriptive Notice, and photos will be prepared for each man assigned to the emergency fire fighting crew and will be retained by the Officer in charge of the group for distribution in the event of escape.

CL-VI-12 EMERGENCY TRANSFERS

Emergency transfers of inmates may be requesed in the following situations:

*Situation*

Where the conduct of an inmate or a group of inmates is of such immediate danger to the se-

curity of the institution that transfer must take place without awaiting normal procedures.

*Situation*

Where the institution does not have detention facilities required to contain the behavior of the inmate(s).

*Procedure*

When the Warden/Superintendent is of the opinion that an emergency transfer be requested, a telephone or teletype request is directed to the Chief, Classification Services.

If the Chief, Classification Services concludes that policy questions or other consideration prevent his granting approval, he will immediately notify the Deputy Director, Program and Staff Services, the Chief Deputy Director, or the Director of Corrections, giving them a statement of the situation and request a decision.

*Situation*

Where the inmate is acutely psychotic and must have immediate hospitalization, institution facilities being inadequate for even temporary holding.

*Procedure—Institutions*

Acutely psychotic cases requiring the inpatient psychiatric services of CMF are to be referred by the Chief Medical Officer sending institution



to the Assistant Superintendent, Psychiatric Services, CMF, to ascertain if the latter institution has space and is in a position to provide the treatment required. If concurrence is gained, then the office of the Assistant Superintendent, Psychiatric Services, CMF, will arrange the transportation and then notify the office of the Chief, Classification Services.

*Procedure—Reception-Guidance Centers*

Acutely psychotic cases at the Reception-Guidance Centers requiring the inpatient psychiatric services of CMF are to be referred by the chief psychiatrists at the Southern Reception-Guidance Center and Northern Reception-Guidance Center and the staff psychiatrist at the DVI-RGC to the Assistant Superintendent, Psychiatric Services, CMF, to ascertain if the latter institution has space and is in a position to provide the treatment required. If concurrence is gained, then the office of the Assistant Superintendent, Psychiatric Services, CMF, will arrange the transportation and then notify the office of the Chief, Classification Services.

If sufficient information is available to complete the Reception-Guidance Center study, then the staffing page will include the transfer approval of the Chief, Classification Services for CMF "A".

If in the judgment of the Reception-Guidance Center administrator there is insufficient informa-

tion available to complete the study, then the following will occur:

*At Northern RGC*—Northern RGC staff will complete the case work-up with the staffing page reflecting the approval of the Chief, Classification Services for CMF "A".

*At Southern RGC and DVI-RGC*—Reception-Guidance Center staff will forward all available information to the Northern RGC. Northern RGC administrator will be responsible for the study completion. The staffing page will reflect the approval of the Chief, Classification Services for CMF "A".

Acutely psychotic inmates are to be transported by air or land ambulance or by a state passenger vehicle. The use of the departmental bus for the transportation of acutely psychotic shall be excluded from consideration.

Where a difference of medical opinion exists as to the proposed transfer, the matter will be referred to the Chief, Medical Services Division, Department of Corrections.

*Situation*

Where the inmate is in need of immediate medical or surgical care not available at the institution.

*Procedure*

Where the transfer is for emergency medical attention, the Chief Medical Officer, sending facility, shall contact the Chief Medical Officer,



receiving facility, to ascertain if the latter is in a position to provide the treatment required. If the reply is in the affirmative, this information shall be transmitted to the office of the Chief, Classification Services, by the sending institution via telephone or teletype, so that he can arrange for transportation. Most emergency medical transfers will be to San Quentin as the institution of choice.

*Situation*

Where the inmate is suffering from tuberculosis, or is suspected of having tuberculosis.

*Procedure*

The inmate will be transferred to San Quentin. If psychosis is also present, he will be transferred to CMF.

The situations described above are based on precedent and predictable. All possible situations requiring the immediacy of action and transfer from one institution to another cannot be predicted or need to be described. There is no substitute for good judgment and prompt action.

CL-VI-13 MEDICAL TRANSFERS—NON-EMERGENCY

Non-emergency medical transfer requests will be presented to a Classification Staff Representative as a recommendation of the institutional classification committee. A medical officer's report should be attached stating the relative seriousness of the

case; the period of time within which the transfer should be effected; the type of transportation necessary; whether an attendant is required; any medication or care necessary while enroute; and a statement that acceptance by the receiving Chief Medical Officer has been obtained. If the transfer appears to fall within departmental policy, the Classification Staff Representative will indicate his endorsement in the usual manner.

If the inmate is to be returned to the sending institution upon completion of medical procedures this will be noted on the CDC Form 246 by adding "and return" after the name of the receiving institution.

If the Classification Staff Representative feels he cannot act upon the transfer recommendation, he will forward his report to the Chief, Classification Services who will consult with the Chief, Medical Services to work out a transfer plan which the Chief Classification Services will transmit to the receiving institution.

Inmates transferred for medical reasons ordinarily will be admitted directly to the hospital at the receiving institution. When medical procedures are completed, the institution records officer will be notified so that arrangements may be made for the inmate's timely return to the institution of origin, if so indicated on the original transfer order. If automatic return has not been indicated, the records officer will refer the case to the institutional classification committee.



Inmates suffering from tuberculosis or suspected of having tuberculosis will be transferred to San Quentin. The foregoing procedures (CL-VI-12) will be followed where appropriate.

### CL-VI-14 Departmental Ambulance

The Departmental air and land ambulance service will be staffed and under the supervision of the Superintendent of the California Medical Facility. Personnel assigned to the ambulance operation will be familiar with the provisions of the Administrative Manual governing the transportation of inmates and necessary procedures governing transportation of medical and psychiatric patients.

The scheduling and routing of the Departmental ambulance will be the responsibility of the Chief, Classification Services. All requests for the use of the ambulance will be directed to him. The ambulance will be used only in those cases where, in the opinion of the Chief Medical Officer, of the sending institution, such transportation is required. A Medical Technical Assistant will accompany the ambulance furnished either by the California Medical Facility or by the sending institution as per arrangement. Requests for ambulance use will include the custodial classification degree of violence and any other necessary information which may be useful to personnel operating the ambulance and receiving institution. In certain cases, it may be necessary to assign a cor-

rectional officer in addition to the Medical Technical Assistant.

The Departmental ambulance may be used in transporting inmates to a parole placement, or to return parolees to an institution when a medical statement is obtained indicating that this type of transportation is medically necessary. Such requests will be submitted to the Supervisor of Placement, Parole and Community Services Division.

A copy of the log of the Departmental ambulance will be forwarded to the Chief, Classification Services on the last day of each month by the California Medical Facility. A log of such transfers shall be kept by the Transportation Officer, Department of Corrections.

CL-VI-15 Suggested Programming and Transfer Request By The Adult Authority

When the Adult Authority recommends special programming and/or suggests a change in classification of an inmate, it is imperative that the institution involved take one or more of the following actions as quickly as administratively possible.

a. If within the purview of the institutional classification committee and a recommendation considered to be in the best interest of the inmate, comply with the recommendation.



b. If the request for change involves a transfer and/or otherwise requires headquarters staff review, refer for action.

c. If the request is not possible for any reason or there is possibly a better solution, communicate this to the Executive Officer of the Adult Authority *immediately.*

Under the provisions of Section 5080 Penal Code, the Adult Authority may request the Director of Corrections to transfer an inmate under his jurisdiction if such transfer is deemed advisable for the diagnosis and treatment of the inmate.

Notification to the Director is made by Form CDC 267 in triplicate, signed by two or more members of the Adult Authority. All copies of the request (Form 267) will be forwarded to the Chief, Classification Services for review and distribution except where the Adult Authority request is for placement of the inmate in the CMF diagnostic-observation unit. In this instance, institutional classification personnel will refer the case to the Assistant Superintendent, Psychiatric Services, CMF, following procedures outlined in CL-X-04-b, subsection (1), and subsection c.

When, in the opinion of the Chief, Classification Services, an Adult Authority request for transfer would not endanger security, he will forward one copy of the completed Form CDC 267 to the Administrative Officer, Adult Authority, for his information. A second copy will go into the in-

mate's file, and the third copy will be returned to the referring institution for filing in Central File Jacket. The institution will prepare a Form 246, Transfer Order, for the signature of a Classification Staff Representative.

When, in the opinion of the Chief, Classification Services, facilities for a transfer requested by the Adult Authority are not available or such transfer would endanger security, he shall refer the request with his comments to the Departmental Review Board. The Departmental Review Board shall prepare a recommendation, with reasons, for the consideration and decision of the Director. Formal notification of the Director's decision shall be transmitted on Form 267 as provided.

Adult Authority requests via CDC 267 for transfer to the CMF diagnostic-observation unit will be forwarded to the Assistant Superintendent, Psychiatric Services, CMF, for review pursuant to procedures outlined in CL-X-04-b, subsection (1), and subsection c. Upon approval, he will forward one copy to the Administrative Officer, Adult Authority, for his information. One copy will be transmitted to the Chief Records Officer, Central Office, for his information and one sent to the referring institution for inclusion in the inmate's Central File Jacket. Where the Assistant Superintendent, Psychiatric Services, is not in accord with the Adult Authority transfer request, he will forward all copies of CDC Form 267 to the Chief, Classification Services with attached documentation for evaluation by the Departmental Review Board. The Chief, Classification Services will notify the Adult Authority and the referring institution of the Director's final decision by routing of Form 267.



CL-VI-16 DISCIPLINARY TRANSFERS

Transfers of inmates for disciplinary reasons will be governed in accordance with the following principles:

1. All necessary actions in regard to the disciplinary infraction committed by the inmate will be taken by the appropriate officials of the institution to which he was assigned at the time of the infraction. This includes decisions as to punishment for the infraction, recommendations to the Adult Authority, and referral to the district attorney for possible prosecution in cases warranting this action.
2. When the inmate is transferred to another institution prior to review of the disciplinary infraction by the Adult Authority (See Administrative Manual Section 320.05011), the disciplinary report will be forwarded to the receiving institution, Attention: Correctional Counselor III, for presentation to the Adult Authority on their next special proceedings calendar.
3. No inmate serving punishment for disciplinary infraction will be transferred to another institution until the disciplinary sentence has

been carried out, suspended or otherwise disposed of.

CL-VI-17 MECHANICS OF TRANSFERS

*Inter-Institutional Transfers*

After distribution of the CDC-246 as in CL-VI-04, the transferring institution will notify the receiving institution of the number of men being transferred and the date of transfer.

The Transportation Officer will sign for the inmates, their records and personal property entrusted to him.

*CDC 143*

Property Transfer Receipt will be prepared in triplicate for the signature of the Transportation Officer. One copy will be retained by the Property Officer of the sending institution. Two copies will accompany the Transportation Officer, one to be retained by the receiving institution, and the other retained by the officer following acknowledgement thereon by the receiving institution of receipt of the property listed.

*Conservation Camp Transfers*

Men approved for camp may leave the institution on the signed order of the Warden/Superintendent. The Transportation Officer will sign for the inmates and their property on CDC 143, Property Transfer Receipt.



*CDC 253*

Camp Assignment Card will be prepared in quadruplicate on each man assigned to camp. Upon arrival at camp, distribution will be as follows:

One copy to camp supervisor's file.

One copy to cooperating agency.

One copy to sheriff of county in which camp is located.

One copy to sheriff of neighboring county if deemed desirable.

*CDC 254*

Camp Descriptive Notice and photos will be prepared (six copies) and kept in camp office for distribution in event of escape.

CL-VI-18 ADMINISTRATIVE TRANSFERS

Administrative transfers are those effected for the welfare and security of the institution. Transfers for administrative reasons are not always of an emergency nature, nor do they necessarily follow disciplinary action.

Administrative transfers may be recommended if the Warden/Superintendent of an institution concurs in the opinion of his staff that the transfer of specific individuals is necessary. In some cases, there will not be positive proof of involvement in dangerous activities, but there is sufficient information to indicate the high probability that serious difficulties or breaches of security will occur if transfer is not effected.

When administrative transfers are approved by the Classification Staff Representatives, over the telephone, a confirming teletype will be sent to the sending institution; copy to receiving institution. Classification Staff Representative will subsequently review all such transfers at the receiving institution.

Such transfers must be very carefully evaluated so as to avoid possibility of serious injustices to the inmates involved. In well managed institutions, the number of such transfers will be very small.

Administrative transfer requests for Departmental convenience will be frequently transmitted by the Chief, Classification Services. These requests will generally be of two kinds:

1. *Work Crew*—At small institutions, inmates qualified as craftsmen or technicians are required for many work assignments. Requests to fill such positions will be frequently directed to other institutions and Reception-Guidance Centers.
2. *Population Adjustments*—All institutions may from time to time be asked to absorb surplus population brought about by unusually heavy intake, shifting of special programs from one facility to another, deactivation of a particular institution and any other similar shifts in inmate population.



## CL-VI-19 Removal of Inmates from Institutions in Case of Specified Types of Disasters

Section 1509.95, Military and Veterans Code, provides that the Warden/Superintendent may remove the inmates from his or her institution in the event of fire, flood, enemy attack, or other major disaster endangering their lives. If possible, the inmates shall be moved to a safe and convenient place and confined as long as may be necessary to avoid the danger. If this is not possible, the Warden/Superintendent may release them without being held liable, civilly or criminally, for acts performed pursuant to Section 1509.95 Military and Veterans Code.

Any of the acts described above shall, obviously, be performed only as a last resort. Where the Warden/Superintendent is of the opinion that such action is absolutely necessary, a telephone request shall be made to the Director of Corrections. If this is not possible, the Warden/Superintendent shall contact the Director by any means possible after the action has taken place and inform him of the circumstances and situation. Insofar as communications permit, he shall also alert local law enforcement agencies of the action taken and request any and all assistance available. In no case shall inmates be evacuated or released outright from the institution without every possible effort being made to insure the safety of the public to the extent possible.

CL-VI-20 EMERGENCY OFF-RESERVATION WORK CREWS

In accordance with CD-VI-00, in the event of a major disaster of enemy attack, the post-disaster programs of the communities surrounding the institutions of the Department of Corrections could be materially augmented by emergency crews of supervised inmates. Possible types of services could include: demolition and salvage, fire fighting, rescue, burial of dead, identification of dead and registration of refugees. Inmates classified for Emergency Fire Fighting and/or Off-Reservation Work Details may be also assigned to disaster relief teams by the designation of X after their custody classification; i.e., Min. BXOREFF.

Approvals for the quota increase of institution Emergency Fire Fighting or Off-Reservation Work Details will be authorized in accordance with established Departmental procedures.

The Conservation Division will be responsible for the development of an overall plan of operation covering all the conservation centers and camps of the Department of Corrections, including permanent, temporary and mobile units under civil defense and disaster conditions. The plan will include written agreement with the cooperating departments and divisions as to the planned use of inmate personnel during an emergency situation (CD-IV-04).



## Appendix C

Administrative Information
and Statistics Section
Research and Planning Services
Policy and Planning Division

State of California
Health and Welfare Agency
Department of Corrections
August 19, 1975

MOVEMENT OF INSTITUTION POPULATION
BY EACH INSTITUTION
Fiscal Year 1974-75

| Movement | Men Total males |
|---|---|
| Population 6-30-74 | 23,277 |
| Total received | 53,864 |
| New admissions | 6,797 |
| Transferred from reception center | 5,803 |
| New admissions—felons | 5,494 |
| Parolees returned | 309 |
| Youth Authority | — |
| Transferred from other institutions | 28,884 |
| Regular | 22,450 |
| Civil narcotic addicts | 3,134 |
| Parolees returned | 100 |
| Overnight | 3,200 |
| County diagnostic cases received | 2,975 |
| Parolees and outpatients returned | 3,587 |
| Returned from court | 4,402 |
| Non-suspended parolees | 584 |
| Youth Authority | 106 |
| All other | 726 |

| | |
|---|---|
| Total released | 54,204 |
| Discharged | 273 |
| Paroled | 6,355 |
| To outpatient status | 3,075 |
| Transferred out of reception center | 5,803 |
| New admissions—felons | 5,494 |
| Parolees returned | 309 |
| Youth Authority | — |
| Transferred to other institutions | 28,884 |
| Regular | 22,450 |
| Civil narcotic addicts | 3,134 |
| Parolees returned | 100 |
| Overnight | 3,200 |
| County diagnostic cases discharged | 2,982 |
| Out to court | 4,573 |
| Non-suspended parolees | 417 |
| Youth Authority | 142 |
| All other | 1,700 |
| Population 6-30-75 | 22,937 |
| Youth Authority wards total | 28 |
| Paroled | 28 |
| Discharged | — |

[Transfers between camps of conservation centers excluded]

[Statistical breakdown of transfers of males by institution and all statistics for transfers of females omitted in printing]